REMARKS

Claims 1, 3 to 7, 10, 12 to 16, 20, and 22 to 30 remain pending. Claims 8, 9, 17, and 18 have been cancelled. Claims 33 to 35 have been withdrawn.

Attorney Ruggiero wishes to thank Examiners Chu and Padmanabhan for the courtesies extended to Attorneys Dean and Zeller during the telephone interview of August 4, 2004.

The numbering of claims 31 to 33 was objected to under 37 C.F.R. 1.126. The Action stated that claims 31 and 32 had never been withdrawn, therefore newly added claims 31 to 33 were not properly numbered. The Action also stated that claims 31 to 33 had been renumbered as claims 33 to 36.

The objection to claims 31 to 33 has been overcome by the recognition of withdrawn claims 31 and 32 and the renumbering of claims 31 to 33 as claims 33 to 35. The mention of a claim 36 in the Action is in error since proper numbering extends only to claim 35.

Claims 8 and 9 have been objected to under 37 C.F.R. 1.75(c) for failure to further limit the subject matter of a previous claim. The Action stated that placement of a composition in a jar and a container having an adjustable volume do not change the physical structure of a composition and that claim 1 is directed to a composition.

The objection to claims 8 and 9 under 37 C.F.R.

1.75(c) is moot since they have been cancelled.

Newly submitted claims 33 to 35 have been objected to for being independent or distinct from the invention originally claimed. The Action stated that claims 33 and 34 were directed to a system and that claim 35 was directed to a method of renewing surface appearance of a composition.

Claims 1, 3 to 10, 12 to 18, 20, and 22 to 30 have been rejected under 35 U.S.C. 112, second paragraph, for failure to particularly point out and distinctly claim the subject matter regarded as the invention. The Action stated that the terms "textured surface appearance" and "pre-determined period of time" in claim 1 rendered it vague and indefinite.

The rejection of claims 1, 3 to 10, 12 to 16, 20, and 22 to 30 under 35 U.S.C. 112, second paragraph, are traversed in view of the extensive teachings of the specification. The term "textured surface appearance" is discussed in considerable detail at pages 6 and 7. The term "pre-determined period of time" is discussed in considerable detail at page 6, lines 20 to 23. During the interview, Examiner Padmanabhan indicated that the extent of disclosure in the specification was sufficient with respect to both terms, and that the rejection under 35 U.S.C. 112, second paragraph, should be withdrawn.

The rejection of claims 2, 11, 17, 18, 19, and 21 under 35 U.S. 112, second paragraph, is moot since they have been canceled.

Claims 1, 3 to 10, 12 to 18, 20, and 22 to 30 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,667,772 to Zastrow et al. (the Zastrow patent) in view of U.S. Patent No. 5,143,652 to Slinn (the Slinn patent) and U.S. Patent No. 6,528,070 B1 to Bratescu et al (the Bratescu patent). The Action states that the Zastrow patent teaches a cream composition having an aqueous fluorocarbon emulsion. The Action also states that the Zastrow patent teaches that the fluorocarbons have oxygen solubility, partial vapor pressure, and that mixtures thereof improve the rate of penetration of the skin. The Action also states that the Zastrow patent teaches liquids, semi-liquids, solids and applications, such as cream, face mask, gel, etc. The Action admits that the Zastrow patent does not teach a "textured surface appearance" or "original, textured surface appearance." The Action admits that the Zastrow patent does not teach the viscosities of the claimed compositions. The Action states that the Bratescu patent teaches cosmetic compositions having viscosities as thin as 100 cps to a cream consistency of 80,000 cps. The Action maintained that is would have been obvious to adjust the viscosities of the compositions of the Zastrow patent to the viscosities as motivated by the Bratescu patent because of the expectation of successfully producing cosmetic compositions with desired viscosities. The Action makes no statements concerning the teachings or relevance of the Slinn patent.

The rejection of claims 1, 3 to 7, 10, 12 to 16, 20, and 22 to 30 under 35 U.S.C. 103(a) over the Zastrow patent

in view of the Slinn patent and the Bratescu patent is overcome in view of the amendments to independent claims 1 and 26. Independent claim 1 requires that the volatile compound have a boiling point from about 45° C to about 85° C and have a perfluorobutyl ether. Independent claim 26 requires that the perfluorocarbon compound have a boiling point from about 45° C to about 85° C and have a perfluorobutyl ether. The Zastrow patent does not disclose perfluorobutyl ethers, let alone those having a boiling point from about 45° C to about 85° C, as being useful in the disclosed compositions. Perfluorobutyl ethers are particularly advantageous in formulating the self-renewing compositions of the present invention. Zastrow, on the other hand, does not even disclose self-renewing compositions as desirable, and teaches using fluorocarbons for an entirely different purpose, enhancing oxygen solubility. Combination of the Zastrow patent with the Bratescu patent or the Slinn patent does not cure the deficiencies in the teachings of the Zastrow patent. Neither the Bratescu patent nor the Slinn patent disclose self-renewing compositions nor perfluorobutyl ethers, lt alone those of the recited boiling point range.

The rejection of claims 8, 9, 17, and 18 under 35 U.S.C. 103(a) over the Zastrow patent in view of the Slinn Patent and the Bratescu patent is moot since they have been canceled.

Reconsideration of claims 1, 3 to 7, 10, 12 to 16, 20, and 22 to 30 is deemed warranted in view of the foregoing, and allowance of said claims is earnestly solicited.

Respectfully submitted,

Dated: August 10, 2004

Charles N. J. Ruggiero
Reg. No. 28,468
Attorney for Applicants
Ohlandt, Greeley, Ruggiero
& Perle, L.L.P.
One Landmark Square
Stamford, CT 06901-2682
Tel: 203-327-4500